

HOUSE BILL 433

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2004 Regular Session
(4r0503)

ENROLLED BILL

-- Health and Government Operations/Education, Health, and Environmental Affairs --

Introduced by **Delegates Boutin and Mandel, and Mandel, Benson, Boteler, Bromwell, Donoghue, Elliott, Goldwater, Hammen, Hubbard, Hurson, Kach, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Rosenberg, Rudolph, Smigiel, V. Turner, and Weldon**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Prescription Drug Safety Act**

3 FOR the purpose of requiring ~~certain health practitioners to print or type written~~
4 ~~prescriptions in a legible manner, include certain information on the~~
5 ~~prescription, and sign the prescription; prohibiting certain health practitioners~~
6 ~~from writing prescriptions in a certain manner; authorizing certain licensing~~
7 ~~boards to take disciplinary action against certain health care practitioners; and~~
8 ~~generally relating to health practitioners and written prescriptions~~
9 prescriptions to be legible; providing that certain penalties do not apply to a
10 violation of this Act; requiring the Secretary of Health and Mental Hygiene, in
11 conjunction with certain other groups, to convene a certain workgroup to study
12 the legibility of prescriptions and report to certain committees on or before a
13 certain date in a certain manner on the recommendations of the workgroup;
14 requiring the study to include certain items; and generally relating to legibility

1 of prescriptions.

2 BY repealing and reenacting, with amendments,
3 Article - Health - General
4 Section 21-220 and 21-1215
5 Annotated Code of Maryland
6 (2000 Replacement Volume and 2003 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Health - General**

10 21-220.

11 (a) A drug that is intended for use by human beings and is in any of the
12 following classifications may be dispensed by a pharmacist only on a written or oral
13 prescription from a health practitioner authorized by law to prescribe the drug:

14 (1) A habit-forming drug to which § 21-218(b)(1) of this subtitle applies.

15 (2) A drug that because of its toxicity or other potentiality for harmful
16 effect, the method of its use, or the collateral measures necessary to its use, is not safe
17 for use except under the supervision of a health practitioner who is authorized by law
18 to administer such a drug.

19 (3) A drug that is limited by an approved application under § 355 of the
20 federal act or § 21-223 of this subtitle to use under the professional supervision of a
21 health practitioner authorized by law to administer such a drug.

22 (b) (1) A prescription may be written or oral. However, a pharmacist may
23 not dispense a drug on an oral prescription unless the pharmacist promptly writes out
24 and files the prescription.

25 (2) A prescription for a controlled dangerous substance within the
26 meaning of Title 5 of the Criminal Law Article may not be written on a preprinted
27 prescription form that states the name, quantity, or strength of the controlled
28 dangerous substance.

29 (3) When a prescription is written, a separate prescription form is
30 required for each controlled dangerous substance. If a pharmacist is otherwise
31 satisfied that a prescription is valid the pharmacist may fill the prescription if the
32 pharmacist promptly writes out and files a prescription for each substance and also
33 files the original prescription.

34 ~~(4) (†) WHEN A PRESCRIPTION IS WRITTEN, A HEALTH PRACTITIONER~~
35 ~~AUTHORIZED BY LAW TO PRESCRIBE A DRUG SHALL:~~

1 (d) The dispensing of a drug without complying with the requirements of this
2 section is the dispensing of a misbranded drug.

3 (e) (1) A drug that is subject to the prescription requirements of this section
4 is misbranded if, at any time before it is dispensed, its label does not bear the
5 statement "Caution: Federal Law Prohibits Dispensing Without Prescription", or
6 "Caution: State Law Prohibits Dispensing Without Prescription".

7 (2) A drug to which the prescription requirements of this section do not
8 apply is misbranded if, at any time before it is dispensed, its label bears the caution
9 statement quoted in paragraph (1) of this subsection.

10 (f) (1) The prescription requirements of this section do not apply to any
11 drug that is exempted under a rule or regulation adopted by the Secretary.

12 (2) The Secretary, by rule or regulation, may exempt any drug from the
13 requirements of this section if the Secretary finds that, as to the drug, the
14 requirements of this section are not necessary for the protection of the public health.

15 (3) The Secretary, by rule and regulation, may exempt from the
16 requirements of this section any drug that is removed from the prescription
17 requirements of the federal act by a rule or regulation adopted under that act.

18 ~~(G) A HEALTH PRACTITIONER AUTHORIZED BY LAW TO PRESCRIBE A DRUG
19 WHO FAILS TO COMPLY WITH SUBSECTION (B)(4) OF THIS SECTION MAY BE SUBJECT
20 TO DISCIPLINARY ACTIONS BY THE APPROPRIATE LICENSING BOARD.~~

21 21-1215.

22 (a) THIS SECTION DOES NOT APPLY TO A VIOLATION OF § 21-220(B)(4) OF THIS
23 TITLE.

24 (B) A person who violates any provision of Subtitle 2 of this title or any
25 regulation adopted under Subtitle 2 of this title is guilty of a misdemeanor and on
26 conviction is subject to:

27 (1) A fine not exceeding \$10,000 or imprisonment not exceeding 1 year or
28 both; or

29 (2) If the person has been convicted once of violating Subtitle 2 of this
30 title, a fine not exceeding \$25,000 or imprisonment not exceeding 3 years or both.

31 [(b)] (C) In addition to any criminal penalties imposed under this section, a
32 person who violates any provision of Subtitle 2 of this title, any rule or regulation
33 adopted under Subtitle 2 of this title, or any term, condition, or limitation of any
34 license or registration issued under Subtitle 2 of this title:

35 (1) Is subject to a civil penalty not exceeding \$5,000, in an action in any
36 District Court; and

1 (2) May be enjoined from continuing the violation.

2 [(c)] (D) Each day on which a violation occurs is a separate violation under
3 this section.

4 SECTION 2. AND BE IT FURTHER ENACTED, That:

5 (a) The Secretary of Health and Mental Hygiene, in conjunction with the
6 Maryland Health Care Commission, the Board of Physicians, and the Board of
7 Pharmacy, shall convene a workgroup of authorized prescribers, including physicians,
8 dentists, podiatrists, and nurses; pharmacists; hospitals; long-term care facilities;
9 and local health departments to study the issue of legibility of prescriptions and make
10 recommendations for any statutory or regulatory changes needed to improve
11 prescription legibility in order to enhance patient safety.

12 (b) The study shall include:

13 (1) The appropriate content and format of a prescription;

14 (2) The best means to inform and educate prescribers if changes in
15 prescription format or content are enacted;

16 (3) The appropriate time frame and procedures for implementation of
17 any changes enacted;

18 (4) Mechanisms for enforcement of any changes enacted;

19 (5) The impact of any changes in the content or format of prescriptions
20 on oral prescriptions;

21 (6) Whether pharmacists should be prohibited by statute from
22 dispensing illegible prescriptions; and

23 (7) The use and cost of computerized physician order entry and the
24 feasibility of eliminating handwritten prescriptions after a specified date.

25 (c) The workgroup shall report its recommendations on or before November 1,
26 2004, in accordance with § 2-1246 of the State Government Article, to the Senate
27 Finance Education, Health, and Environmental Affairs Committee and the House
28 Health and Government Operations Committee.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
30 effect ~~October~~ July 1, 2004.

